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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BANK OF AMERICA, N.A.,

Case No.: 2:16-CV-01692-APG-GWF

Plaintiff,

VS.

OPERTURE, INC., a corporation; BRIDGER INVESTMENTS LLC, a Nevada limited liability company; GEORGE PETER LEE; ALESSI & KOENIG, LLC, a Nevada limited liability company; INDIGO HOMEOWNERS' ASSOCIATION, a Nevada non-profit corporation; and DOES I through X, and ROE CORPORATIONS I through X, inclusive;

**STIPULATION AND ORDER TO:
(1) SET ASIDE CLERK'S DEFAULT;
 AND
(2) VACATE DEFAULT JUDGMENT
 AGAINST DEFENDANT
 GEORGE PETER LEE**

Defendants.

STIPULATION

Defendant George Peter Lee (“**Defendant**”) by and through the law firm of Schwartz Flansburg PLLC, and Plaintiff, Bank of America, N.A. (“**Plaintiff**”), by and through the law firm of Wright, Finlay & Zak, LLP, hereby stipulate and agree as follows:

1. On November 16, 2017, the Clerk entered default as to Defendants Bridger Investment LLC and George Peter Lee (the “**Clerk’s Default**”). [ECF No. 36]:

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1 2. On January 26, 2018, Plaintiff filed its Renewed Application for Default
2 Judgment against George Peter Lee and Bridger Investment LLC (the “**Renewed Application**”).
3 [ECF No. 43];

4 3. On February 7, 2018, the Court entered its Order Granting the Renewed
5 Application. [ECF No. 45];

6 4. On February 8, 2018, the Clerk entered its Default Judgment in favor of Plaintiff
7 and against Defendants Bridger Investment LLC and George Peter Lee (the “**Default
Judgment**”). [ECF No. 46];

8 5. On March 9, 2018, counsel for Defendant made their initial appearance in this
9 matter. [ECF No. 48];

10 6. Rule 55(c) of the Federal Rules of Civil Procedure allows the Court to set aside an
11 entry of default for good cause, and to set aside a final default judgment pursuant to Rule 60(b);

12 7. Rule 60(b)(5) of the Federal Rules of Civil Procedure allows the Court to relieve a
13 party from a final judgment if the judgment “has been satisfied, released, or discharged.”
14 Similarly, Rule 60(b)(6) allows the Court to relieve a party from such a judgment for “any other
15 reason that justifies relief;”

16 8. Rule 60(b)’s provisions for setting aside default judgments are “remedial,” and
17 “must be liberally applied.” United States v. Aguilar, 782 F.3d 1101, 1106 (9th Cir. 2015) citing
18 Falk v. Allen, 739 F.2d 461, 463 (9th Cir. 1984) (per curiam). The Ninth Circuit often reiterates
19 the longstanding policy that a default judgment “is a drastic step appropriate only in extreme
20 circumstances,” and that “a case should, whenever possible, be decided on the merits.” Id.

21 9. Plaintiff and Defendant agree and stipulate that there is good cause to set aside the
22 Clerk’s Default as to Defendant;

23 10. Plaintiff and Defendant agree and stipulate to vacate the Default Judgment against
24 Defendant;

25 11. The sole remaining appearing party, Defendant Indigo Homeowner’s Association,
26 does not object to this agreement and stipulation, and consents to the same pursuant to LR 7-
27 1(c);

1 12. Defendant shall file and serve his response to Plaintiff's Complaint within twenty-
2 one (21) days of the date of the order granting this stipulation.

3 IT IS SO STIPULATED.

4 Dated this 11th day of May, 2018

Dated this 11th day of May, 2018

5 SCHWARTZ FLANSBURG PLLC

WRIGHT FINLAY & ZAK

7 */s/ Andrew P. Dunning*
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11 *Attorneys for Defendant*
George Peter Lee

7 */s/ Aaron D. Lancaster*
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10 *Attorneys for Plaintiff*
Bank of America, N.A.

13 Dated this 11th day of May, 2018

14 LEACH JOHNSON SONG & GRUCHOW

16 */s/ Chase Pittsenbarger*
17 Sean L. Anderson, Esq.
Nevada Bar No. 7259
18 Chase Pittsenbarger, Esq.
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20 *Attorneys for Defendant*
Indigo Homeowners' Association

ORDER

2 Based upon the foregoing stipulation, and good cause appearing, the Court hereby orders
3 as follows:

- 4 1. The above stipulation of the parties is approved;

5 2. The November 16, 2017, Clerk's Default [ECF No. 36] is set aside as to

6 Defendant George Peter Lee;

7 3. The February 8, 2018, Default Judgment in favor of Plaintiff [ECF No. 46] is

8 vacated as to Defendant George Peter Lee;

9 4. Defendant George Peter Lee shall file and serve his response to Plaintiff's

10 Complaint within twenty-one (21) days of the date of this order.

IT IS SO ORDERED:

UNITED STATES DISTRICT JUDGE
Dated: May 14, 2018.

Submitted By:

SCHWARTZ FLANSBURG PLLC

/s/ Andrew P. Dunning

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